

JUSTICE AND PUBLIC SAFETY CABINET
Department of Corrections
(Amendment)

501 KAR 2:070. Work release.

RELATES TO: KRS 532.100, 533.010, 533.025

STATUTORY AUTHORITY: KRS 196.035, 197.020, 533.010(14)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 196.035 requires the secretary to promulgate administrative regulations necessary or suitable for the proper administration of the functions of the cabinet or any division in the cabinet. KRS 532.100(9) authorizes the commissioner to approve work release for Class D state prisoners serving their sentences in jails. KRS 197.020 requires the Department of Corrections to promulgate administrative regulations for the character of the labor and the length of time during which the prisoners shall be employed daily. KRS 533.010(14) requires the Department of Corrections to promulgate an administrative regulation to develop written criteria for work release privileges for offenders serving probation with an alternate sentence granted by the statute. This administrative regulation establishes work release procedures.

Section 1. (1) The criteria to be used in the determination of granting work release shall be the following:

(a) The defendant granted work privileges shall have a suitable job placement, at a lawful wage, as approved by the sentencing court.

(b) The defendant's job placement shall be within the boundaries of the Commonwealth and shall not require travel outside of the Commonwealth.

(c) The defendant shall provide or arrange transportation to and from the employment site in a lawful manner.

(d) The defendant's employer shall be willing to cooperate with all law enforcement agencies in the verification of the conditions of the defendant's work release.

(2) If the defendant is paying for a part of his incarceration through court-ordered work release, it shall be the responsibility of the jailer or designee to notify the department. The amount paid by the defendant toward his incarceration shall be forwarded to the department on a monthly basis along with the jail housing bill.

Section 2. The jailer may deny work release privileges to a defendant for violating any duly promulgated or adopted rule of the jail governing inmate conduct or work release including:

(1) Returning to the jail under the influence of drugs or alcohol;

(2) Promoting or attempting to promote contraband; and

(3) Failing to notify the jailer of any change in the status of his employment.

Section 3. Upon denial of work release privileges, a written report shall be completed stating the reasons for the suspension of these privileges and citing the rule or regulation that has been violated.

(1) The jailer shall provide a copy of the report to the defendant within twenty-four (24) hours.

(2) The jailer shall file the report and supporting documentation with the court of jurisdiction within the time specified in KRS 533.010(13).

Section 4. State inmates may participate in work release in accordance with KRS 532.100(9). The jailer may elect to provide work release for state inmates, pursuant to the requirements outlined in Corrections Policy and Procedure (CPP) 19.4 incorporated by reference in 501 KAR 6:020.

COOKIE CREWS, Commissioner

APPROVED BY AGENCY: July 1, 2021

FILED WITH LRC: July 14, 2021 at 1:48 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation will be held on September 22, 2021, at 9:00 a.m. at the Justice and Public Safety Cabinet, 125 Holmes Street, Frankfort, Kentucky 40601. Any person who wishes to be heard at this hearing shall notify the agency in writing by five workdays prior to the hearing of their intent to attend. If a notice of intent to attend the hearing is not received by that date, the hearing may be cancelled. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through September 30, 2021. Send written notice of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Amy V. Barker, Assistant General Counsel, Justice and Public Safety Cabinet, 125 Holmes Street, Frankfort, Kentucky 40601, phone (502) 564-8207, fax (502) 564-6686, Justice.RegContact@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Amy Barker

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes work release procedures for Class D state prisoners serving their sentences in jails pursuant to KRS 532.100(9) and establishes the criteria for work release for offenders serving probation with an alternate sentence pursuant to KRS 533.010(14).

(b) The necessity of this administrative regulation: The administrative regulation complies with the requirement to have work release procedures pursuant to KRS 532.100(9) and KRS 533.010(14).

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 533.010(14) requires promulgation of an administrative regulation for written criteria for work release privileges and KRS 532.100(9) authorizes inmate participation in a community work program with approval of the commissioner.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: The administrative regulation provides jailers with criteria for participation in work release.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: The amendment adds provisions for KRS 532.100(9).

(c) How the amendment conforms to the content of the authorizing statutes: The changes are within the authority granted by the authorizing statutes.

(d) How the amendment will assist in the effective administration of the statutes: It provides clarity for those involved in work release.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This affects approximately 74 county

and regional jails that house Class C and D felons and their staff, approximately 50 Department of Corrections' employees, including 15 Local Facilities staff, and approximately 5,585 Class C and D felons in the jails.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: The additional work release procedures will need to be followed. Many are similar to prior provisions, but these apply to a different category of prisoner in the jail.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): No additional cost is anticipated.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Another group of prisoners may be involved in work release.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially: No increase in cost is anticipated.

(b) On a continuing basis: No increase in cost is anticipated.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: State budgeted funds for the Department of Corrections and county budgeted funds for jail operating expenses.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No increase in fees or funding is anticipated.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: No fees are established or increased.

(9) TIERING: Is tiering applied? No. Tiering was not appropriate in this administrative regulation because the administrative regulation applies equally to all those individuals or entities regulated by it.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The amendment impacts the Department of Corrections and jails.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 196.035, 197.020, 532.100, 533.010

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? The amendment does not create any revenue for the Department of Corrections, the counties, or other government entity.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? The amendment does not create any revenue for the Department of Corrections, the counties, or other government entity.

(c) How much will it cost to administer this program for the first year? The amendment adds an additional group of prisoners to the list of eligibility to participate in work release. The amendment is not expected to increase cost for the Department of Corrections, the counties, or other government entity.

(d) How much will it cost to administer this program for subsequent years? The amendment adds an additional group of prisoners to the list of eligibility to participate in work release. The amendment is not expected to increase cost for the Department of Corrections, the counties, or other government entity.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation: